

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: PETTY OFFENSES

Magistrate No. 20-2469

MOTION TO DISMISS PETTY OFFENSE CITATIONS

AND NOW comes the United States of America, by its attorneys, Scott W. Brady, United States Attorney for the Western District of Pennsylvania, and Troy Rivetti, Assistant United States Attorney for said District, and respectfully moves the Court to issue an Order dismissing the citations listed in Exhibit A to this Motion. In further support of this Motion, the United States avers as follows:

1. On March 13, 2020, Chief United States District Judge Mark R. Hornak issued an Administrative Order Concerning Jury Trials and Certain Other Proceedings Relative to COVID-19 Matters, Misc. No. 2:20-mc-394-MRH, continuing in-person court proceedings throughout the Western District of Pennsylvania in light of the health risks posed by in-person gatherings at the outbreak of the COVID-19 pandemic in Pennsylvania.

2. Chief Judge Hornak has issued additional administrative orders further continuing certain in-person proceedings. The most recent administrative order, dated October 30, 2020, continues in-person proceedings until February 8, 2021, with some exceptions, and states that, “Central Violations Bureau proceedings may be conducted, rescheduled or continued at the direction of the Chief Magistrate Judge.” Misc. No. 2:20-mc-394-MRH at 11.

3. Consistent with Chief Judge Hornak’s orders, the United States Magistrate Judges have cancelled at least three court dates that were scheduled to adjudicate petty offense

citations¹ in the District. Because of this, the Court has been unable to resolve both new citations and citations that had been previously scheduled for appearance but remained unresolved.

4. In order to adjudicate petty offense citations, the Court, as a matter of practice and efficiency, schedules its docket on a single day when it commands all people cited for outstanding violations to appear at the courthouse. This convenes a large group of defendants and their witnesses and counsel, prosecutors and prosecution staff, law enforcement and prosecution witnesses, and a judge and court staff in a single courtroom and adjacent hallway.

5. Recognizing the concerns Chief Judge Hornak identified in his Administrative Orders and in consideration of the health risks of convening a petty offense docket, and after consulting with affected law enforcement agencies, the United States has identified a list of older citations that it will decline to prosecute, attached as Exhibit A.

6. The United States, in moving to dismiss the aforementioned citations, does not intend to minimize the conduct underlying the citations and will continue to enforce and prosecute violations going forward. Instead, this constitutes a decision to appropriately respond to challenges presented by a once-in-a-generation pandemic.

7. Further, the United States hereby requests that any Order by this Court dismissing any of the listed citations contain an admonition and warning advising the defendant that, in the event of any future infraction, the United States intends to investigate and prosecute any such violation in accordance with the law.

¹ Title 18, United States Code, Section 19 defines “petty offense” as a Class B misdemeanor, a Class C misdemeanor, or an infraction, for which the maximum fine is no greater than [\$5,000 for individuals].”

WHEREFORE, the United States of America respectfully requests that the Court issue an Order dismissing the petty offense citations listed in Exhibit A. A proposed Order is attached.

SCOTT W. BRADY
United States Attorney

By:

/s/Troy Rivetti
TROY RIVETTI
Assistant United States Attorney
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